

REMARKS

The Office Action dated October 11, 2007, has been received and carefully noted. The following remarks are submitted as a full and complete response thereto.

Claims 1-17 were pending. Claims 5, 7, 9-11 and 16-17 were withdrawn from consideration pursuant to an Election of Species Requirement dated March 7, 2007. Claims 3, 4, 14, and 15 are being canceled. Claims 1, 2, 12, and 13 are being amended to more clearly set forth the invention. Clear support can be found in figures 2 – 6 and the description thereof in the specification from line 23 on page 6 through line 25 on page 17. No new matter has been added. Accordingly, claims 1, 2, 6, 8, 12, and 13 are respectfully submitted for consideration.

As a preliminary matter, the Applicants note the Office Action statement that only claims 1-4, 6, 8 and 12-15 are pending for examination. The Applicants respectfully submit that claims 5, 7, 9-11 and 16-17 are also pending although they are withdrawn from consideration. These claims have not been canceled from the application. Therefore, the Applicants respectfully request acknowledgement that claims 5, 7, 9-11 and 16-17 remain pending.

Rejections Under 35 U.S.C. § 102

Claims 1-3 and 12-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by Walker et al. (U.S. Patent No. 5,794,207, "Walker"). Claims 2 and 3 depend from claim 1 and claims 13 and 14 depend from claim 12. The Applicants traverse the rejection and respectfully submit that claims 1-3 and 12-14 recite subject matter that is neither disclosed nor suggested by Walker.

Claim 1 recites a system for determining overall capability of a trading partner, in a bidding system with which trading partners present their bidding prices via a network, in response to a matter presented by a buyer company, comprising certain particular structure. A trading partner database is provided for storing scores representing capabilities of the trading partners on a plurality of estimation items. An element weight table contains weights of the capabilities of the trading partners for the plurality of estimation items for each of plural matters. A database is provided for the matters to be quoted by trading partners. A controller is arranged (1) to determine bidding trading partners that show bidding prices, (2) to retrieve scores on the plurality of estimation items of the bidding trading partners, from the trading partner database, (3) to retrieve weights for the plurality of estimation items for the matter presented by the buyer company, from the element weight table, (4) to multiply a score on each of the estimation items by a weight for the estimation item for the matter presented by the buyer to calculate a weighted score on each of the estimation items for the matter for each of the bidding trading partners, (5) to sum weighted scores of the estimation items to calculate a weighted overall score for the matter for each of the bidding trading partners, and (6) to select a trading partner to supply the matter from the bidding trading partners based on the bidding prices and the weighted overall scores.

Claim 12 recites a method for comprehensively determining a trading partner by a system comprising a database storing scores representing capabilities of trading partners, an element weight table containing weights of the capabilities of the trading partners for a plurality of estimation items for each of plural matters and a database for said matters to be quoted by trading partners, and a controller. The method comprises

the following steps performed by the controller: (1) receiving bidding prices from the trading partners; (2) determining bidding trading partners that show bidding prices; (3) retrieving scores on the plurality of estimation items of the bidding trading partners from the trading partner database; (4) retrieving weights for the plurality of estimation items for the matter presented by the buyer company, from the element weight table; (5) multiplying a score on each of the estimation items by a weight for the estimation item for the matter presented by the buyer to calculate a weighted score on each of the estimation items for the matter for each of the bidding trading partners; (6) summing weighted scores of the estimation items to calculate a weighted overall score for the matter for each of the bidding trading partners; and (7) selecting a trading partner to supply the matter from the bidding trading partners based on the bidding prices and the weighted overall scores.

Walker discloses a method and apparatus for effectuating bilateral buyer-driven commerce. Walker allows prospective buyers of goods and services to communicate a binding purchase offer globally to potential sellers, for sellers conveniently to search for relevant buyer purchase offers, and for sellers potentially to bind a buyer to a contract based on the buyer's purchase offer. The apparatus of Walker includes a controller which receives binding purchase offers from prospective buyers. See the Abstract of Walker.

The Applicants respectfully submit that Walker fails to disclose or suggest the claimed features of the invention. More specifically, Walker fails to teach, suggest or disclose the functions of the controller of Claim 1 or the method steps of Claim 12.

The Office Action attempts to characterize certain of the claim limitations as being present in Walker. It is submitted that these characterizations are clearly erroneous.

For example, the Office Action states that Walker discloses a “window seat is worth two points, an aisle seat is one point, a nonstop flight four points, etc.” CPO 100 could require that ten “points” must be met in order to satisfy the conditions of CPO 100 for selecting a trading partner based on prices and data. As a preliminary matter, the Office Action misquotes this disclosure of Walker. Walker actually discloses:

“alternatively, each condition of CPO 100 could be given a point value, with CPO 100 requiring only that conditions be satisfied up to a certain total point value. For example, buyer may indicate that a window seat is worth two points, an isle seat one point, a nonstop flight four points, etc. CPO 100 could require that ten “points” must be met in order to satisfy the conditions of CPO 100.”

See column 16, lines 13-37 of Walker.

The features of the window seat being worth two points, and other point values, are indications made by the buyer to the CPO. There is no disclosure that these point values in Walker are stored in the seller database 260. Specifically, Walker does not disclose or suggest that a window seat being worth two points, an aisle seat being worth one point, or a nonstop flight being worth four points are “data representing capabilities” that are stored in a database. Certainly, there is no disclosure in Walker that window seat values, aisle seat values, and nonstop values are stored in the seller database 260 or even used to select a trading partner as claimed.

The Office Action further states that “conditions could also indicate that for 24 hours following the first attempted binding of CPO 100, other sellers may make offers to bind, with the original binding seller completing the contract if no better offer has [been] received”. The Applicants respectfully submit that there is still no disclosure or suggestion in Walker that the seller database 260 stores data representing capabilities of trading partners in the form of points, as suggested in the Office Action. As such, the Applicants respectfully submit that Walker does not disclose or suggest the features of the invention as recited in claims 1 and 12.

To qualify as prior art under 35 U.S.C. § 102, each and every feature recited in a rejected claim must be disclosed by the applied art. Accordingly, Walker does not anticipate claims 1 and 12, nor are claims 1 and 12 obvious in view of Walker. Therefore, the Applicants submit that claims 1 and 12 are allowable over Walker.

Rejections Under 35 U.S.C. § 103

Claims 4, 6, 8 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker in view of Official Notice. Claims 6 and 8 depend from claim 1.

The Applicants traverse the rejection and respectfully submit that claims 6 and 8 recite submit matters that is neither disclosed nor suggested by Walker and Official Notice.

As a preliminary matter, with respect to claim 6, the Applicants traverse the Official Notice that it is old and well known in the business of auctions for a controller to arrange to choose a selecting routine from a plurality of predetermined selecting

routines, according to an article subjected to the bidding and to select a trading partner or trading partners for the matter by executing the chosen selecting routine.

The Applicants further traverse the Official Notice that it is old and well known in the art for a controller to arrange to represent a difference between the bidding price and a target price determined for the matter, to add the price difference to the weighted data, and to select trading partners in order of decreasing value of the data, after the addition, as recited in claim 8. The Applicants respectfully request that the Office Action provide evidence supporting the rejection in view of Official Notice in any future Office Action.

In addition, the Applicants respectfully submit that Official Notice fails to cure the deficiencies in Walker with respect to claim 1 from which claims 6 and 8 depend. Specifically, there is no disclosure or suggestion in Walker, or the prior art in general, of a controller operating as recited in claim 1.

As such, Walker and Official Notice fail to disclose or suggest the features of the invention as recited claim 1, and therefore, depending claims 6 and 8.

To establish a *prima facie* case of obviousness, each and every feature of a rejected claim must be taught or suggested by the applied art of record. See M.P.E.P. § 2143.03.

In view of the above, the Applicants respectfully submit that Walker and Official Notice fail to support a *prima facie* case of obviousness for purposes of a rejection of claims 6 and 8 under 35 U.S.C. § 103. Accordingly, claims 6 and 8 are not rendered obvious in view of Walker and Official Notice and should be deemed allowable.

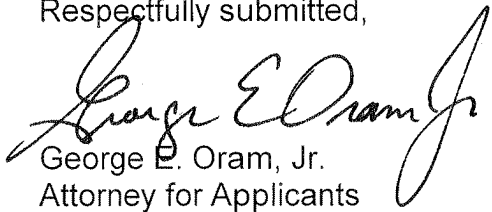
Conclusion

The Applicants respectfully submit that claims 1 and 12 are allowable. Claims 2, 6 and 8 depend from claim 1 and claim 13 depends from claim 12. The Applicants further submit that each of these claims incorporate the patentable aspects thereof, and are therefore allowable for at least the same reasons as discussed above. Accordingly, the Applicants respectfully request withdrawal of the objections and rejections, allowance of claims 1, 2, 6, 8, 12, and 13 and the prompt issuance of a Notice of Allowability.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing Attorney Dkt. No. 108426-00013.**

Respectfully submitted,



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